IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 217 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GANGARAM DAHYABHAI KEVAT

Versus

STATE OF GUJARAT

Appearance:

MR TR MISHRA for Petitioner No. 1-2

NOTICE SERVED for Respondent No. 1-2

CORAM : MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 11/09/2001

ORAL JUDGEMENT

The present petition is filed by two petitioners who have stated in the cause title that they are working at present as Government Labour Officers. The case of the petitioners is that the petitioners were appointed as Government Labour Officers on purely temporary basis by a Notification dated 23.2.1984, a copy of which is annexed

at Annexure 'A' to this petition, and that the petitioners worked as such for a period of three months and the Government of Gujarat issued another Notification dated 27.6.1984 reverting all the 13 petitioners of Special Civil Application No.551 of 1985 and creating equal number of posts of Superintendent/ Supervisor and the petitioners were directed to work on this post. The Notification dated 27.6.1984 is also produced at Annexure 'B' to this petition. It is the case of the petitioners that right from the beginning, i.e issuance of the Notification dated 23.2.1984 the petitioners have been working as Government Labour Officers and performing all the statutory duties imposed under various provisions of law. The petitioners being aggrieved of the reversion order from the post of Government Labour Officer to the post of Superintendent/ Scrutiniser has challenged the same in Special Civil Application No.551 of 1985, which was admitted. It is also the case of the petitioners that thereafter a Civil Application No.2290 of 1989 was filed in Special Civil Application No.551 of 1985 as the respondent authorities did not pay the petitioners salary of the post of Government Labour Officer and further denied promotion in routine course to the post of Government Labour Officer. The Special Civil Application No.551 of 1985 was rejected on 18.10.96.

2. The petitioners have also filed a copy of order dated 23.8.1989 whereby the Government promoted 16 Superintendents, who according to the petitioners are the juniormost, to the post of Government Labour Officer superseding the senior persons whose petitions are pending. It is the case of the petitioners that the petitioners waited for some time to see that the Government may review its decision and give justice to the senior persons, who are already performing duties of Government Labour Officer and the question of their regularisation to the post of Government Labour Officer may be considered. It is also the case of the petitioners that the Govt. has issued another notification dated 9.1.1990 promoting eight other employees who are the petitioners in Special Civil Application No.551 of 1985, but not promoting the present petitioners. A copy of said notification dated 9.1.1990 is produced at Annexure 'E' to the petition. Being aggrieved of that the present petition is filed wherein the Court passed an order on 16.1.1990 as under:

"Rule. To be heard with Spl. C.A. No.551/ 85.
Status quo as on today except any change in accordance with law to continue till further orders. Direct service permitted."

Affidavit in reply is filed on behalf of respondent no.1, i.e. State of Gujarat through Under Secretary to the Govt. of Gujarat, Labour & Employment Department, Sachivalaya, Gandhinagar, wherein it is specifically stated that,

> "I respectfully submit that the petitioners cannot claim promotion to the post of Government Labour Officer, Class II and at the most, what can be claimed by the petitioners is that he can claim for being considered for promotion to the said post. I submit that under the relevant Recruitment rules for the post of Government Labour Officer, Class II, the criteria of proved merit and efficiency has been laid down and a person possessing proved merit and efficiency can be promoted to the said post. I submit that the cases of the petitioners were considered for promotion at the relevant time and since they were not possessing suitability under the said criteria, the Departmental Promotion committee had not recommended cases of the petitioners for promotion to the post of Government Labour Officer and they are not promoted along with other officers promoted under the Govt. Notification dated 9.1.1990. I, therefore, submit that the petition deserves to be dismissed summarily."

The affidavit in reply proceeds to reply the averments made in paras 1 and 2 of the petition. It is stated in para 5 of the affidavit in reply that the Government by notification dated 23.2.1984 promoted the petitioners and other 13 Class III employees to the post of Government Labour Officer, Class II on purely temporary and ad hoc basis. It is also stated in the affidavit in reply that,

> " .. .. It is clarified in the said order that such promotion would be for the period of three months from the date of order or direct recruit candidate selected through the Gujarat Public Service Commission is available, whichever is earlier. .. .."

3. It is also stated that on completion of period of three years, the petitioners and other officers were reverted by order dated 30.6.1984. The deponent has also stated in para 6 of the affidavit in reply that,

> ".. .. I submit that the Departmental

> Promotion Committee ('DPC' for brevity) met on 10.5.1989 has considered cases for Supdts./ Scrutiniser for promotion to the post of Government Labour Officers. The employees who have entered into the zone of consideration on the basis of the seniority were considered by the said Committee. I submit that the DPC having considered the suitability of each eligible candidate have recommended 25 candidates for promotion to the post of Government Labour Officers. The recommendations of the Committee were forwarded to the GPSC for its approval and initially the GPSC has accorded approval of 16 candidates and thereupon under the Notification dated 23.7.1989, 16 employees have been promoted to the post of Government Labour Officer. I submit that out of total 13 petitioners of Spl. CA No.551/85, 8 petitioners were recommended for promotion to the post of Government Labour Officer by the DPC and having received the approval from the GPSC, those 8 employees have been promoted to the post of Government Labour Officer under Notification dated 9.1.1990. .. .. .."

4. There is no rejoinder filed to this affidavit in reply. On perusal of the record of the petition and the affidavit in reply, there is no substance in the petition. The Special Civil Application is dismissed. Rule is discharged. Interim relief is vacated. No order as to costs.

(Ravi R. Tripathi, J.)

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